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October 14, 2014

VIA ECF AND ELECTRONIC MAIL

Hon. Andrew L. Carter, Jr. U.S.D.J.
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

**Re: *Zelouf International Corp. v. Na El, Inc. and Lito Children's Wear, Inc.*,
13 CV 1788 (ALC)(JCF)**

Dear Judge Carter:

This firm represents plaintiff Zelouf International Corp. ("Zelouf") in the above-referenced copyright infringement case against Defendant Na El, Inc. ("Na El"). Except where noted below, we write jointly with counsel for Na El pursuant to the Court's August 14, 2014 Order (as modified via memo endorsement on September 17, 2014), to provide a report on the two designs which were at issue in this case, namely the Zelouf Design PLD 6676 (the "Plaid Design") and the Zelouf Design 8933 (the "Damask Design").

With respect to the Plaid Design, Na El has advised that it intends to proceed with a motion to dismiss Zelouf's claim on the grounds that Zelouf's Plaid Design lacks originality, that the claims are barred by the statute of limitations, and that Na El claims to have marketed an identical or substantially similar plaid design prior to Zelouf's publication of its Plaid Design. The parties have conferred on the discovery that will be necessary in connection with the contemplated motion, including production of the plaid design actually sold by Na El, the deposition of the Na El customer alleged to have purchased that design, and the Na El and Zelouf designers who purportedly created the two designs. The parties intend to complete this discovery within sixty (60) days of the date of this letter, with motion papers to be submitted within thirty (30) days thereafter, on or around January 16, 2015 (the parties will submit a briefing schedule in advance for the Court's review and approval).

With respect to the Damask Design, it is Zelouf's contention that Your Honor had proposed at the last court conference that the claims and counterclaims of both parties be withdrawn, with each party simply reserving its right to seek sanctions/damages against the other party for having asserted a claim/counterclaim that was alleged to have been without merit. Zelouf was prepared to proceed on this basis. Na El disagrees with Zelouf's recollection of the



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August 14, 2014 court conference, and has indicated that it intends to proceed with its copyright infringement counterclaim. In light of the foregoing, Zelouf intends to move to dismiss the counterclaim on the ground that the designs at issue are not substantially similar, and may also move to dismiss on the ground that Na El's copyright is invalid, based upon the results of certain outstanding discovery. The parties will complete this discovery related to the Damask Design in the same sixty (60) day timeframe set forth above, and will also set a briefing schedule for the Damask Design motion which will run concurrently with the briefing schedule for the motion related to the Plaid Design.

Counsel for Na El and Zelouf are available at the Court's convenience should Your Honor have any questions or concerns regarding the proposals set forth in this Joint Status Report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael G. Goldberg".

Michael G. Goldberg

cc: The Honorable James C. Francis, U.S.M.J. (*via facsimile*)
Scott A. Burroughs, Esq. (*via electronic mail*)
Michael Steger, Esq. (*via electronic mail*)
Zelouf International Corp. (*via electronic mail*)